

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
SEMYON GRINBLAT, individually and on behalf
of all others similarly situated,

Case No. 1:19-CV-03799-NGG-PK

Plaintiff,

ANSWER

-against-

195 BURGER CORP., BILL WOLF PETROLEUM
CORP., JOHN DOE 1-X, persons yet unknown, Limited
Liability Companies, Partnerships, Corporations 1-X,
entities yet unknown,

Defendants.

-----X
Defendants 195 BURGER CORP. and BILL WOLF PETROLEUM CORP., by their
attorney herein, JAY L. YACKOW, ESQ., for their answer to the complaint, respectfully set
forth and allege:

1. Deny the allegations contained in paragraphs “1”, “2”, “3”, “4”, “5”, “6”, “20”, “21”,
“22”, “24”, “26”, “27”, “28”, “32”, “33”, “34”, “35”, “36”, “37”, “38”, “39”, “40”, “41”, “42”,
“43”, “44”, “45”, “46”, “47”, “48”, “49”, “50”, “51”, “52”, “53”, “54”, “55”, “63”, “84”, “87”,
“89”, “91”, “93”, “98”, “99”, “101”, “103”, “104”, “110”, “112”, “113”, “114”, “132”, “136”,
“137”, “149”, “156”, “165”, “167”, “168”, “169”, “170”, “171”, “172”, “173”, “174”, “175” and
“176” of the complaint as legal conclusions and/or subjective interpretations thereof.

2. Deny knowledge or information sufficient to form a belief as to the allegations
contained in paragraphs “7”, “8”, “23”, “56”, “57”, “58”, “67”, “68”, “69”, “70”, “71”, “72”,
“73”, “74”, “75”, “76”, “77”, “78”, “79”, “80”, “82”, “90”, “92”, “95”, “96”, “97”, “100”, “102”,
“106”, “107”, “108”, “109”, “111”, “115” and “154” of the complaint.

3. Deny the allegations contained in paragraphs “9”, “11”, “12”, “25” and “62” in that defendant 195 BURGER CORP. denies it owns the Subject Facility and defendant BILL WOLF PETROLEUM CORP. denies it operates same, but defendant 195 BURGER CORP. admits it operates the Subject Facility and defendant BILL WOLF PETROLEUM CORP. admits it owns the property on which the Subject Facility is situated.

4. Deny the allegations contained in paragraphs “59” and “64” of the complaint as to defendant BILL WOLF PETROLEUM CORP. and admit said allegations as to defendant 195 BURGER CORP.

5. Admit the allegations contained in paragraphs “10”, “13”, “14”, “15”, “16”, “17”, “18”, “19”, “60”, “61”, “65”, “66” and “94” of the complaint.

6. Admit the allegations contained in paragraph “25” of the complaint except deny that defendant BILL WOLF PETROLEUM CORP. operated the Subject Facility.

7. Deny the allegations contained in paragraphs “29”, “30”, “31”, “81”, “83”, “85”, “86”, “88”, “105”, “116”, “117”, “118”, “119”, “120”, “121”, “122”, “123”, “124”, “125”, “126”, “127”, “128”, “129”, “130”, “131”, “133”, “134”, “138”, “139”, “140”, “141”, “142”, “143”, “144”, “145”, “146”, “147”, “148”, “151”, “152”, “153”, “157”, “158”, “159”, “160”, “161”, “162”, “163”, “164” and “166” of the complaint.

FIRST AFFIRMATIVE DEFENSE

8. Plaintiff’s complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

9. Plaintiff’s claims are barred in whole or in part by the doctrine of waiver.

THIRD AFFIRMATIVE DEFENSE

10. Plaintiff is estopped from recovery against defendants due to his own conduct and actions.

FOURTH AFFIRMATIVE DEFENSE

11. Plaintiff has failed to name necessary parties.

FIFTH AFFIRMATIVE DEFENSE

12. The proposed class action fails to meet the numerosity requirement of Fed. R. Civ. Proc. 23(a)(1).

SIXTH AFFIRMATIVE DEFENSE

13. The proposed class action fails to meet the commonality requirement of Fed. R. Civ. Proc. 23(a)(2).

SEVENTH AFFIRMATIVE DEFENSE

14. The proposed class action fails to meet the typicality requirement of Fed. R. Civ. Proc. 23(a)(3).

EIGHTH AFFIRMATIVE DEFENSE

15. The proposed class lacks common questions of law or fact, as required by Fed. R. Civ. Proc. 23(b)(3).

NINTH AFFIRMATIVE DEFENSE

16. The named plaintiff will not adequately and fairly protect the interests of the proposed class as required by Fed. R. Civ. Proc. 23(a)(4).

WHEREFORE, defendants demand judgment against plaintiff dismissing the complaint, and such other relief as the Court deems just and proper.

Dated: Westbury, New York
September 9, 2019

Yours, etc.

JAY L. YACKOW, ESQ.
Attorney for Defendants
195 BURGER CORP. and
BILL WOLF PETROLEUM CORP.
355 Post Avenue, Suite 201
Westbury, New York 11590
(516) 997-4040

TO: Michael Grinblat, Esq.
817 Broadway, Fourth Floor
New York, New York 10003
(347) 796-0712

Index No. 03799

Year 2019

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SEMYON GRINBLAT, individually and
on behalf of all others similarly situated,

Plaintiff,

-against-

195 BURGER CORP., BILL WOLF
PETROLEUM CORP., JOHN DOE 1-X,
persons yet unknown, Limited Liability
Companies, Partnerships, Corporations 1-X,
entities yet unknown,

Defendants.

ANSWER

JAY L. YACKOW
Attorney for Defendants
195 BURGER CORP. and
BILL WOLF PETROLEUM CORP.
355 POST AVENUE, SUITE 201
WESTBURY, NEW YORK 11590
TELEPHONE NO. (516) 997-4040
FACSIMILE NO. (516) 997-4005